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Attorneys for Non-Party
AMAZON WEB SERVICES, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ELASTICSEARCH, INC., a Delaware
corporation, and ELASTICSEARCH B.V., a
Dutch corporation,

Plaintiffs,

v.

FLORAGUNN GmbH, a German corporation,

Defendant.

CONSOLIDATED CASE
Case No. 4:19-cv-05553-YGR

**DECLARATION OF JOSEPH C. GRATZ
PURSUANT TO LOCAL RULE 79-5(E)(1)
AND IN FURTHER SUPPORT OF
FLORAGUNN GMBH'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

1 I, Joseph C. Gratz, hereby declare as follows:

2 1. I am a partner with the law firm Durie Tangri LLP, and I am one of the attorneys
3 representing non-party Amazon Web Services, Inc. (“AWS”) in the above-captioned matter. I make this
4 declaration from personal knowledge, and if called to testify, I could and would testify competently
5 thereto.

6 2. On September 7, 2021, I filed a declaration (ECF No. 158) in support of floragunn
7 GmbH’s (“floragunn”) administrative motion to seal (ECF No. 153). Attached to that declaration as
8 Exhibit A was a declaration by Carl Meadows, Senior Manager for Product Management for Amazon
9 Elasticsearch Service at AWS, submitted pursuant to Local Rule 79-5(e)(1) in support of floragunn’s
10 administrative motion to file documents under seal (“Meadows Declaration”).

11 3. On September 21, 2021, floragunn filed an administrative motion to seal (ECF No. 187).
12 In the motion and the attached declaration, floragunn specified filings that contain highly confidential
13 AWS information. I understand AWS information is limited to the following:

14 a. Defendant’s Memorandum of Points and Authorities in Opposition to Plaintiffs’
15 Motion to Exclude Testimony of Brian Buss, **page 20, lines 13–15**

16 4. I understand that information contained in this item to be taken from or derived from the
17 same highly confidential, sensitive, and proprietary AWS business information described in the
18 Meadows Declaration. For the same reasons described in that declaration, a true and correct copy of
19 which is reattached here as **Exhibit A**, the AWS information specified above should be sealed.

20 I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing is true and correct. Executed this 27th day of September, 2021, at San Francisco, California.

22
23 /s/ Joseph C. Gratz
24 JOSEPH C. GRATZ
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EXHIBIT A

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Dutch corporation,

Plaintiffs,

v.

FLORAGUNN GmbH, a German corporation,

Defendants.

CONSOLIDATED CASE
Case No. 4:19-cv-05553-YGR

**DECLARATION OF CARL MEADOWS
PURSUANT TO LOCAL RULE 79-5(e)(1) AND
IN SUPPORT OF FLORAGUNN GMBH'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

1 I, Carl Meadows, hereby declare as follows:

2 1. I am a Senior Manager for Product Management for Amazon Elasticsearch Service
3 (“AESS”) at Amazon Web Services, Inc. (“AWS”), where I have worked since September 2015. I make
4 this declaration based on my own personal knowledge. If called as a witness, I could and would testify
5 under oath to the matters set forth herein.

6 2. I make this declaration pursuant to Northern District of California Civil Local Rule 79-
7 5(e)(1) and in support of floragunn GmbH’s (“floragunn”) administrative motion to file documents under
8 seal (“Motion to Seal”), filed August 31, 2021, associated with floragunn’s Motion to Exclude Portions
9 of Testimony of Plaintiffs’ Expert Matthew Lynde (“Motion to Exclude”), also filed August 31, 2021.

10 3. I make this declaration in support of sealing portions of the Motion to Exclude, as well as
11 the entirety of an attached document, that, to the best of my knowledge, contain highly confidential,
12 proprietary, and sensitive competitive business information produced by AWS pursuant to a third-party
13 subpoena in this matter. The disclosure of this information would likely cause substantial harm to the
14 competitive position of AWS. For this reason, the information at issue was designated “Highly
15 Confidential – Attorney’s Eyes Only” pursuant to the operative protective order in this case.

16 4. On **Lines 7–11 of Page 6** of the Motion to Exclude, floragunn refers to highly
17 confidential, proprietary, and sensitive competitive business information that I included in a declaration I
18 made in response to a third-party subpoena issued by Plaintiffs in this matter, as well as to expert
19 conclusions made using that information. The declaration was designated “Highly Confidential –
20 Attorney’s Eyes Only” pursuant to the operative protective order in this case. AWS takes strict measures
21 to protect the type of information revealed in these lines, which includes internal data about Amazon
22 Elasticsearch Service (“AESS”), and, in my experience, AWS does not disclose this information outside
23 the company. If revealed to competitors, they could use this non-public and confidential information to
24 disadvantage AWS. Further, any expert analysis of AWS data, whether correct or not, has the potential
25 to reveal the underlying highly confidential, proprietary, and sensitive business information. For these
26 reasons, Lines 7–11 of Page 6 of the Motion to Exclude should be sealed.

27 5. **Exhibit I** of the Rivkin Declaration, attached to the Motion to Exclude (“Corrected
28 Declaration of Carl Meadows, dated July 9, 2021”), is the entire, above-referenced declaration I made in

1 response to Plaintiffs' third-party subpoena in this matter. The declaration was designated "Highly
2 Confidential – Attorney's Eyes Only" pursuant to the operative protective order in this case. The
3 declaration contains confidential information about AWS's internal procedures, policies, and practices
4 underlying its services and software projects; highly confidential statistical data about AESS software
5 releases and AESS usage over time; and internal statistics kept by AWS regarding the open-source
6 project known, as of the relevant time, by the name Open Distro for Elasticsearch. AWS takes strict
7 measures to protect the type of information revealed in this declaration and, in my experience, AWS does
8 not disclose this information outside the company. If revealed to competitors, they could use this non-
9 public and confidential information to disadvantage AWS—not only by gaining access to proprietary
10 data, but also by gaining insight into AWS's internal decision-making practices. For these reasons,
11 Exhibit I of the Rivkin Declaration, attached to the Motion to Exclude, should be sealed.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct. Executed this 3rd day of September, 2021, at Seattle, Washington.

DocuSigned by:



CARL MEADOWS

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2021 the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the attorneys of record in this case.

/s/ Joseph C. Gratz

JOSEPH C. GRATZ